

AMENDED IN SENATE AUGUST 30, 2014

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN SENATE JUNE 26, 2014

AMENDED IN ASSEMBLY MAY 7, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2678

Introduced by Assembly Member Ridley-Thomas

February 21, 2014

An act to amend ~~Sections 8670.7.5, 8670.29, and 8670.40 of, and to repeal and add Section 8670.95 of, Section 8670.40 of~~ the Government Code, relating to oil spill prevention and response, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2678, as amended, Ridley-Thomas. Oil spills: oil spill prevention and ~~response: administration fee.~~

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. ~~Existing law requires the administrator to adopt and implement regulations and deems the adoption of certain regulations by the administrator to be an emergency.~~

~~This bill would require the administrator to promulgate specified regulations by July 1, 2016.~~

Existing law requires an oil spill contingency plan to, at a minimum, include certain requirements, among which is a requirement to describe the strategies for the protection of environmentally sensitive areas. Existing law requires an oil spill contingency plan for a facility to include provisions detailing locations of environmentally sensitive areas requiring special protection.

~~This bill would revise these requirements to require instead the identification of environmentally sensitive areas and environmental sites requiring special protection, and to describe appropriate protection strategies. This bill would remove the requirement that an oil spill contingency plan for a facility include provisions for site security and control, for emergency medical treatment and first aid, for safety training, and detailing site layout.~~

Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement oil spill prevention activities, but not to exceed \$0.065 per barrel of crude oil or petroleum products. ~~The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury and moneys in the fund are available, upon appropriation by the Legislature, for specified purposes.~~ Existing law requires the oil spill prevention and administration fee to be imposed upon a person owning crude oil *or petroleum products* at the time that the crude oil ~~is or petroleum products are~~ received at a marine terminal *or refinery* by specified modes of delivery from within or outside the ~~state~~. *state, as provided.*

~~This bill would require that fee to be imposed at the time that the crude oil is received at a refinery instead of at a marine terminal. This bill would state legislative intent only to collect that the fee on crude oil or petroleum products be collected only upon first delivery to a refinery or marine terminal and not upon subsequent movement of that same oil or products derived after that first delivery.~~

~~This bill would state legislative intent that the act is a matter of statewide concern and that the act is to be interpreted and implemented so as not to conflict with specified federal law or to prevent trains that meet the requirements of federal law from entering the state.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 8670.40 of the Government Code, as*
2 *amended by Section 37 of Chapter 35 of the Statutes of 2014, is*
3 *amended to read:*

4 8670.40. (a) The State Board of Equalization shall collect a
5 fee in an amount determined by the administrator to be sufficient
6 to pay the reasonable regulatory costs to carry out the purposes
7 set forth in subdivision (e), and a reasonable reserve for
8 contingencies. The annual assessment shall not exceed six and
9 one-half cents (\$0.065) per barrel of crude oil or petroleum
10 products. The oil spill prevention and administration fee shall be
11 based on each barrel of crude oil or petroleum products, as
12 described in subdivision (b). *It is the intent of the Legislature that*
13 *the State Board of Equalization only collect the fee on crude oil*
14 *or petroleum products upon first delivery to a refinery or marine*
15 *terminal as described in subdivision (b) and not upon subsequent*
16 *movement of that same oil or products derived after that first*
17 *delivery. Nothing in this section shall prohibit the State Board of*
18 *Equalization from determining the appropriate collection point at*
19 *the marine terminal or refinery.*

20 (b) (1) The oil spill prevention and administration fee shall be
21 imposed upon a person owning crude oil at the time that the crude
22 oil is received at a marine terminal, by any mode of delivery that
23 passed over, across, under, or through waters of the state, from
24 within or outside the state, and upon a person who owns petroleum
25 products at the time that those petroleum products are received at
26 a marine terminal, by any mode of delivery that passed over, across,
27 under, or through waters of the state, from outside this state. The
28 fee shall be collected by the marine terminal operator from the
29 owner of the crude oil or petroleum products for each barrel of
30 crude oil or petroleum products received.

31 (2) The oil spill prevention and administration fee shall be
32 imposed upon a person owning crude oil or petroleum products at
33 the time that the crude oil or petroleum products are received at a
34 refinery within the state by any mode of delivery that passed over,
35 across, under, or through waters of the state, whether from within
36 or outside the state. The refinery shall collect the fee from the
37 owner of the crude oil or petroleum products for each barrel
38 received.

(3) (A) There is a rebuttable presumption that crude oil or petroleum products received at a marine terminal or a refinery have passed over, across, under, or through waters of the state. This presumption may be overcome by a marine terminal operator, refinery operator, or owner of the crude oil or petroleum products by showing that the crude oil or petroleum products did not pass over, across, under, or through waters of the state. Evidence to rebut the presumption may include, but shall not be limited to, documentation, including shipping documents, bills of lading, highway maps, rail maps, transportation maps, related transportation receipts, or another medium that shows the crude oil or petroleum products did not pass over, across, under, or through waters of the state.

(B) Notwithstanding the petition for redetermination and claim for refund provisions of the Oil Spill Response, Prevention, and Administration Fees Law (Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code), the State Board of Equalization shall not do either of the following:

(i) Accept or consider a petition for redetermination of fees determined pursuant to this section if the petition is founded upon the grounds that the crude oil or petroleum products did or did not pass over, across, under, or through waters of the state.

(ii) Accept or consider a claim for a refund of fees paid pursuant to this section if the claim is founded upon the grounds that the crude oil or petroleum products did or did not pass over, across, under, or through waters of the state.

(C) The State Board of Equalization shall forward to the administrator an appeal of a redetermination or a claim for a refund of fees that is based on the grounds that the crude oil or petroleum products did or did not pass over, across, under, or through waters of the state.

(4) The fees shall be remitted to the State Board of Equalization by the owner of the crude oil or petroleum products, the refinery operator, or the marine terminal operator on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a refinery or marine terminal during the preceding month. A fee shall not be imposed pursuant to this section with respect to crude oil or petroleum products if the person who would be liable for that fee, or responsible for its collection, establishes that the fee has already been collected by a refinery or

1 marine terminal operator registered under this chapter or paid to
2 the State Board of Equalization with respect to the crude oil or
3 petroleum product.

4 (5) The oil spill prevention and administration fee shall not be
5 collected by a marine terminal operator or refinery operator or
6 imposed on the owner of crude oil or petroleum products if the fee
7 has been previously collected or paid on the crude oil or petroleum
8 products at another marine terminal or refinery. It shall be the
9 obligation of the marine terminal operator, refinery operator, or
10 owner of crude oil or petroleum products to demonstrate that the
11 fee has already been paid on the same crude oil or petroleum
12 products.

13 (6) An owner of crude oil or petroleum products is liable for
14 the fee until it has been paid to the State Board of Equalization,
15 except that payment to a refinery operator or marine terminal
16 operator registered under this chapter is sufficient to relieve the
17 owner from further liability for the fee.

18 (7) On or before January 20, the administrator shall annually
19 prepare a plan that projects revenues and expenses over three fiscal
20 years, including the current year. Based on the plan, the
21 administrator shall set the fee so that projected revenues, including
22 any interest and inflation, are equivalent to expenses as reflected
23 in the current Budget Act and in the proposed budget submitted
24 by the Governor. In setting the fee, the administrator may allow
25 for a surplus if the administrator finds that revenues will be
26 exhausted during the period covered by the plan or that the surplus
27 is necessary to cover possible contingencies. The administrator
28 shall notify the State Board of Equalization of the adjusted fee
29 rate, which shall be rounded to no more than four decimal places,
30 to be effective the first day of the month beginning not less than
31 30 days from the date of the notification.

32 (c) The moneys collected pursuant to subdivision (a) shall be
33 deposited into the fund.

34 (d) The State Board of Equalization shall collect the fee and
35 adopt regulations for implementing the fee collection program.

36 (e) The fee described in this section shall be collected solely
37 for all of the following purposes:

38 (1) To implement oil spill prevention programs through rules,
39 regulations, leasing policies, guidelines, and inspections and to
40 implement research into prevention and control technology.

1 (2) To carry out studies that may lead to improved oil spill
2 prevention and response.

3 (3) To finance environmental and economic studies relating to
4 the effects of oil spills.

5 (4) To implement, install, and maintain emergency programs,
6 equipment, and facilities to respond to, contain, and clean up oil
7 spills and to ensure that those operations will be carried out as
8 intended.

9 (5) To reimburse the State Board of Equalization for its
10 reasonable costs incurred to implement this chapter and to carry
11 out Part 24 (commencing with Section 46001) of Division 2 of the
12 Revenue and Taxation Code.

13 (6) To fund the Oiled Wildlife Care Network pursuant to Section
14 8670.40.5.

15 (f) The moneys deposited in the fund shall not be used for
16 responding to a spill.

17 (g) The moneys deposited in the fund shall not be used to
18 provide a loan to any other fund.

19 (h) Every person who operates a refinery, a marine terminal in
20 waters of the state, or a pipeline shall register with the State Board
21 of Equalization, pursuant to Section 46101 of the Revenue and
22 Taxation Code.

23 (i) The amendments to this section enacted in Senate Bill 861
24 of the 2013–14 Regular Session shall become operative 90 days
25 after the effective date of Senate Bill 861 of 2013–14 Regular
26 Session.

27 *SEC. 2. This act is an urgency statute necessary for the*
28 *immediate preservation of the public peace, health, or safety within*
29 *the meaning of Article IV of the Constitution and shall go into*
30 *immediate effect. The facts constituting the necessity are:*

31 *In order to clarify the collection of the oil spill prevention and*
32 *administration fee as quickly as possible, it is necessary that this*
33 *act take effect immediately.*

34 ~~SECTION 1. Section 8670.7.5 of the Government Code is~~
35 ~~amended to read:~~

36 ~~8670.7.5. (a) The administrator may adopt regulations to~~
37 ~~implement this chapter pursuant to the Administrative Procedure~~
38 ~~Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
39 ~~Division 3).~~

1 ~~(b) (1) An emergency regulation adopted pursuant to~~
2 ~~amendments made to this chapter by Senate Bill 861 of the~~
3 ~~2013-14 Regular Session (Chapter 35 of the Statutes of 2014)~~
4 ~~shall be deemed an emergency and necessary to avoid serious harm~~
5 ~~to the public peace, health, safety, or general welfare for the~~
6 ~~purposes of Sections 11346.1 and 11349.6, and the administrator~~
7 ~~is hereby exempt from the requirement that he or she describe facts~~
8 ~~showing the need for immediate action and from review by the~~
9 ~~Office of Administrative Law.~~

10 ~~(2) Notwithstanding Section 11346.1, an emergency regulation~~
11 ~~adopted pursuant to paragraph (1) shall remain in effect for 12~~
12 ~~months or until readopted by the administrator, whichever is earlier.~~

13 ~~(3) By July 1, 2016, the administrator shall promulgate all~~
14 ~~regulations to implement changes made by Senate Bill 861 of the~~
15 ~~2013-14 Regular Session (Chapter 35 of the Statutes of 2014).~~

16 ~~SEC. 2. Section 8670.29 of the Government Code is amended~~
17 ~~to read:~~

18 ~~8670.29. (a) In accordance with the rules, regulations, and~~
19 ~~policies established by the administrator pursuant to Section~~
20 ~~8670.28, an owner or operator of a facility, small marine fueling~~
21 ~~facility, or mobile transfer unit, or an owner or operator of a tank~~
22 ~~vessel, nontank vessel, or vessel carrying oil as secondary cargo,~~
23 ~~while operating in the waters of the state or where a spill could~~
24 ~~impact waters of the state, shall have an oil spill contingency plan~~
25 ~~that has been submitted to, and approved by, the administrator~~
26 ~~pursuant to Section 8670.31. An oil spill contingency plan shall~~
27 ~~ensure the undertaking of prompt and adequate response and~~
28 ~~removal action in case of a spill, shall be consistent with the~~
29 ~~California oil spill contingency plan, and shall not conflict with~~
30 ~~the National Oil and Hazardous Substances Pollution Contingency~~
31 ~~Plan (NCP).~~

32 ~~(b) An oil spill contingency plan shall, at a minimum, meet all~~
33 ~~of the following requirements:~~

34 ~~(1) Be a written document, reviewed for feasibility and~~
35 ~~executability, and signed by the owner or operator, or his or her~~
36 ~~designee.~~

37 ~~(2) Provide for the use of an incident command system to be~~
38 ~~used during a spill.~~

~~(3) Provide procedures for reporting oil spills to local, state, and federal agencies, and include a list of contacts to call in the event of a drill, threatened spill, or spill.~~

~~(4) Describe the communication plans to be used during a spill, if different from those used by a recognized incident command system.~~

~~(5) Identify environmentally sensitive areas and environmental sites requiring special protection, and describe appropriate protection strategies.~~

~~(6) Identify at least one rated OSRO for each rating level established pursuant to Section 8670.30. Each identified rated OSRO shall be directly responsible by contract, agreement, or other approved means to provide oil spill response activities pursuant to the oil spill contingency plan. A rated OSRO may provide oil spill response activities individually, or in combination with another rated OSRO, for a particular owner or operator.~~

~~(7) Identify a qualified individual.~~

~~(8) Provide the name, address, and telephone and facsimile numbers for an agent for service of process, located within the state and designated to receive legal documents on behalf of the owner or operator.~~

~~(9) Provide for training and drills on elements of the plan at least annually, with all elements of the plan subject to a drill at least once every three years.~~

~~(e) An oil spill contingency plan for a vessel shall also include, but is not limited to, all of the following requirements:~~

~~(1) The plan shall be submitted to the administrator at least seven days prior to the vessel entering waters of the state.~~

~~(2) The plan shall provide evidence of compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.~~

~~(3) If the oil spill contingency plan is for a tank vessel, the plan shall include both of the following:~~

~~(A) The plan shall specify oil and petroleum cargo capacity.~~

~~(B) The plan shall specify the types of oil and petroleum cargo carried.~~

~~(4) If the oil spill contingency plan is for a nontank vessel, the plan shall include both of the following:~~

~~(A) The plan shall specify the type and total amount of fuel carried.~~

1 ~~(B) The plan shall specify the capacity of the largest fuel tank.~~

2 ~~(d) An oil spill contingency plan for a facility shall also include,~~
3 ~~but is not limited to, provisions for vessels that are in the~~
4 ~~operational control of the facility for loading and unloading.~~

5 ~~(e) Unless preempted by federal law or regulations, an oil spill~~
6 ~~contingency plan for a railroad also shall include, but is not limited~~
7 ~~to, all of the following:~~

8 ~~(1) A list of the types of train cars that may make up the consist.~~

9 ~~(2) A list of the types of oil and petroleum products that may~~
10 ~~be transported.~~

11 ~~(3) A map of track routes and facilities.~~

12 ~~(4) A list, description, and map of any prestaged spill response~~
13 ~~equipment and personnel for deployment of the equipment.~~

14 ~~(f) The oil spill contingency plan shall be available to response~~
15 ~~personnel and to relevant state and federal agencies for inspection~~
16 ~~and review.~~

17 ~~(g) The oil spill contingency plan shall be reviewed periodically~~
18 ~~and updated as necessary. All updates shall be submitted to the~~
19 ~~administrator pursuant to this article.~~

20 ~~(h) In addition to the regulations adopted pursuant to Section~~
21 ~~8670.28, the administrator shall adopt regulations and guidelines~~
22 ~~to implement this section. The regulations and guidelines shall~~
23 ~~provide for the best achievable protection of waters and natural~~
24 ~~resources of the state. The administrator may establish additional~~
25 ~~oil spill contingency plan requirements, including, but not limited~~
26 ~~to, requirements based on the different geographic regions of the~~
27 ~~state. All regulations and guidelines shall be developed in~~
28 ~~consultation with the Oil Spill Technical Advisory Committee.~~

29 ~~(i) Notwithstanding subdivision (a) and paragraph (6) of~~
30 ~~subdivision (b), a vessel or facility operating where a spill could~~
31 ~~impact state waters that are not tidally influenced shall identify a~~
32 ~~rated OSRO in the contingency plan no later than January 1, 2016.~~

33 ~~SEC. 3. Section 8670.40 of the Government Code, as amended~~
34 ~~by Section 37 of Chapter 35 of the Statutes of 2014, is amended~~
35 ~~to read:~~

36 ~~8670.40. (a) The State Board of Equalization shall collect a~~
37 ~~fee in an amount determined by the administrator to be sufficient~~
38 ~~to pay the reasonable regulatory costs to carry out the purposes~~
39 ~~set forth in subdivision (c), and a reasonable reserve for~~
40 ~~contingencies. The annual assessment shall not exceed six and~~

1 one-half cents (\$0.065) per barrel of crude oil or petroleum
2 products. The oil spill prevention and administration fee shall be
3 based on each barrel of crude oil or petroleum products, as
4 described in subdivision (b). It is the intent of the Legislature that
5 the State Board of Equalization only collect the fee on crude oil
6 or petroleum products upon first delivery to a refinery or marine
7 terminal as described in subdivision (b) and not upon subsequent
8 movement of that same oil or products derived after that first
9 delivery. Nothing in this section shall prohibit the State Board of
10 Equalization from determining the appropriate collection point at
11 the marine terminal or refinery.

12 (b) (1) The oil spill prevention and administration fee shall be
13 imposed upon a person who owns petroleum products at the time
14 that those petroleum products are received at a marine terminal,
15 by any mode of delivery that passed over, across, under, or through
16 waters of the state, that originated from outside this state. The fee
17 shall be collected by the marine terminal operator from the owner
18 of the petroleum products for each barrel of petroleum products
19 received.

20 (2) The oil spill prevention and administration fee shall be
21 imposed upon a person owning crude oil at the time that the crude
22 oil is received at a refinery, by any mode of delivery that passed
23 over, across, under, or through waters of the state, that originated
24 from within or outside the state, and upon a person who owns
25 petroleum products at the time that those petroleum products are
26 received at a refinery, by any mode of delivery that passed over,
27 across, under, or through waters of the state, that originated from
28 within or outside this state. The fee shall be collected by the
29 refinery operator from the owner of the crude oil or petroleum
30 products for each barrel of crude oil or petroleum products
31 received.

32 (3) (A) There is a rebuttable presumption that crude oil or
33 petroleum products received at a marine terminal or a refinery
34 have passed over, across, under, or through waters of the state.
35 This presumption may be overcome by a marine terminal operator,
36 refinery operator, or owner of the crude oil or petroleum products
37 by showing that the crude oil or petroleum products did not pass
38 over, across, under, or through waters of the state. Evidence to
39 rebut the presumption may include, but shall not be limited to,
40 documentation, including shipping documents, bills of lading,

1 highway maps, rail maps, transportation maps, related
2 transportation receipts, or another medium that shows the crude
3 oil or petroleum products did not pass over, across, under, or
4 through waters of the state.

5 (B) Notwithstanding the petition for redetermination and claim
6 for refund provisions of the Oil Spill Response, Prevention, and
7 Administration Fees Law (Part 24 (commencing with Section
8 46001) of Division 2 of the Revenue and Taxation Code), the State
9 Board of Equalization shall not do either of the following:

10 (i) Accept or consider a petition for redetermination of fees
11 determined pursuant to this section if the petition is founded upon
12 the grounds that the crude oil or petroleum products did or did not
13 pass over, across, under, or through waters of the state.

14 (ii) Accept or consider a claim for a refund of fees paid pursuant
15 to this section if the claim is founded upon the grounds that the
16 crude oil or petroleum products did or did not pass over, across,
17 under, or through waters of the state.

18 (C) The State Board of Equalization shall forward to the
19 administrator an appeal of a redetermination or a claim for a refund
20 of fees that is based on the grounds that the crude oil or petroleum
21 products did or did not pass over, across, under, or through waters
22 of the state.

23 (4) The fees shall be remitted to the State Board of Equalization
24 by the owner of the crude oil or petroleum products, the refinery
25 operator, or the marine terminal operator on the 25th day of the
26 month based upon the number of barrels of crude oil or petroleum
27 products received at a refinery or marine terminal during the
28 preceding month. A fee shall not be imposed pursuant to this
29 section with respect to crude oil or petroleum products if the person
30 who would be liable for that fee, or responsible for its collection,
31 establishes that the fee has already been collected by a refinery or
32 marine terminal operator registered under this chapter or paid to
33 the State Board of Equalization with respect to the crude oil or
34 petroleum product.

35 (5) The oil spill prevention and administration fee shall not be
36 collected by a marine terminal operator or refinery operator or
37 imposed on the owner of crude oil or petroleum products if the fee
38 has been previously collected or paid on the crude oil or petroleum
39 products at another marine terminal or refinery. It shall be the
40 obligation of the marine terminal operator, refinery operator, or

1 owner of crude oil or petroleum products to demonstrate that the
2 fee has already been paid on the same crude oil or petroleum
3 products:

4 (6) An owner of crude oil or petroleum products is liable for
5 the fee until it has been paid to the State Board of Equalization,
6 except that payment to a refinery operator or marine terminal
7 operator registered under this chapter is sufficient to relieve the
8 owner from further liability for the fee.

9 (7) On or before January 20, the administrator shall annually
10 prepare a plan that projects revenues and expenses over three fiscal
11 years, including the current year. Based on the plan, the
12 administrator shall set the fee so that projected revenues, including
13 any interest and inflation, are equivalent to expenses as reflected
14 in the current Budget Act and in the proposed budget submitted
15 by the Governor. In setting the fee, the administrator may allow
16 for a surplus if the administrator finds that revenues will be
17 exhausted during the period covered by the plan or that the surplus
18 is necessary to cover possible contingencies. The administrator
19 shall notify the State Board of Equalization of the adjusted fee
20 rate, which shall be rounded to no more than four decimal places,
21 to be effective the first day of the month beginning not less than
22 30 days from the date of the notification.

23 (e) The moneys collected pursuant to subdivision (a) shall be
24 deposited into the fund.

25 (d) The State Board of Equalization shall collect the fee and
26 adopt regulations for implementing the fee collection program.

27 (e) The fee described in this section shall be collected solely
28 for all of the following purposes:

29 (1) To implement oil spill prevention programs through rules,
30 regulations, leasing policies, guidelines, and inspections and to
31 implement research into prevention and control technology.

32 (2) To carry out studies that may lead to improved oil spill
33 prevention and response.

34 (3) To finance environmental and economic studies relating to
35 the effects of oil spills.

36 (4) To implement, install, and maintain emergency programs,
37 equipment, and facilities to respond to, contain, and clean up oil
38 spills and to ensure that those operations will be carried out as
39 intended.

1 ~~(5) To reimburse the State Board of Equalization for its~~
2 ~~reasonable costs incurred to implement this chapter and to carry~~
3 ~~out Part 24 (commencing with Section 46001) of Division 2 of the~~
4 ~~Revenue and Taxation Code.~~

5 ~~(6) To fund the Oiled Wildlife Care Network pursuant to Section~~
6 ~~8670.40.5.~~

7 ~~(f) The moneys deposited in the fund shall not be used for~~
8 ~~responding to a spill.~~

9 ~~(g) The moneys deposited in the fund shall not be used to~~
10 ~~provide a loan to any other fund.~~

11 ~~(h) Every person who operates a refinery, a marine terminal in~~
12 ~~waters of the state, or a pipeline shall register with the State Board~~
13 ~~of Equalization, pursuant to Section 46101 of the Revenue and~~
14 ~~Taxation Code.~~

15 ~~(i) The amendments to this section enacted in Senate Bill 861~~
16 ~~of the 2013–14 Regular Session shall become operative 90 days~~
17 ~~after the effective date of Senate Bill 861 of 2013–14 Regular~~
18 ~~Session.~~

19 ~~SEC. 4. Section 8670.95 of the Government Code is repealed.~~

20 ~~SEC. 5. Section 8670.95 is added to the Government Code, to~~
21 ~~read:~~

22 ~~8670.95. (a) It is the intent of the Legislature that this chapter~~
23 ~~is a matter of statewide concern. It is the intent of the Legislature~~
24 ~~that this chapter be interpreted and implemented so as not to~~
25 ~~conflict with federal law with respect to the design, construction,~~
26 ~~integrity testing, or operation of a vessel or facility. It is the intent~~
27 ~~of the Legislature that this chapter be interpreted and implemented~~
28 ~~so as not to prevent a train that meets the requirements of federal~~
29 ~~law from entering the state contingent upon meeting the~~
30 ~~requirements of this chapter.~~

31 ~~(b) Each provision of this chapter stands alone and is severable.~~
32 ~~If any provision is declared by a court to be unconstitutional,~~
33 ~~preempted by federal law, or otherwise invalid, all of the other~~
34 ~~provisions of this chapter are intended to, and shall remain, fully~~
35 ~~effective and shall be interpreted to exclude the unconstitutional,~~
36 ~~preempted, or otherwise invalid provisions. If any sentence, clause,~~
37 ~~word, or portion of this chapter is for any reason held to be~~
38 ~~unconstitutional, preempted by federal law, or otherwise invalid,~~
39 ~~that holding shall not affect the remaining provisions of this~~
40 ~~chapter. The Legislature hereby declares that it would have enacted~~

1 the particular section and each sentence, clause, word, or provision
2 thereof despite the fact that one or more sentences, clauses, words,
3 or provisions of a particular section may be held unconstitutional,
4 preempted by federal law, or otherwise invalid.

O